



In the United States Patent and Trademark Office

Appeal No: 2005-0378  
Serial No: 09/232,566  
Confirm No: 1686  
Appn Filed: 01/15/99  
Applicant: Rolf Jansen  
Appn Title: Tractor/Trailer Back-up Kit  
Examiner/GAU: Tung Vo/2613

Mailed: 10/26/06

At: Houston, Texas

SUBMITTAL OF PETITION TO WITHDRAW AN APPLICATION FROM ISSUE

TO: Director, Technology Center 2600

Sir:

The appellant, Rolf Jansen, pro se, files the attached Petition To Withdraw An Application From Issue, in accordance with 37 CFR Sect 1.313(a), in response to the Notice Of Allowance And Fee(s) Due, 6 pages, mailed 09/15/2006. Appellant has not paid the utility issue fee. Check for \$130.00, the fee for filing this Petition, is enclosed.

11/01/2006 MBIZONES 00000055 09232566  
Very respectfully,  
*Rolf Jansen*  
Rolf Jansen, appellant, pro se  
P.O. Box 73161  
Houston, TX 77273-3161  
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Certificate of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 10/26/06 *Rolf Jansen*  
Rolf Jansen, appellant, pro se

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Sir:

The appellant, Rolf Jansen, pro se, submits this Petition To Withdraw An Application From Issue, in accordance with 37 CFR Sect 1.313(a), in response to the Notice Of Allowance And Fee(s) Due, 6 pages, in two 3 page parts, mailed 09/15/06. (Copy of said Notice Of Allowance is attached as Exhibit 1.) Appellant has not paid the utility issue fee.

PETITION TO MAKE SPECIAL

Petition To Make Special, for reason IV-Applicant is over 65 years of age, was granted on 09/27/04, by the Director Office, Technology Center 2600. Applicant/appellant is now age 73. (Copy of the Decision on Petition is attached as Exhibit 2.)

REASON FOR PETITION TO WITHDRAW AN APPLICATION FROM ISSUE

In the examiner's response to the appellant's Amended 2nd Supplemental Appeal Brief, he allowed claim 3 but amended claim 4 before allowing it. (Copy of examiner's response, mailed 09/15/06, including Examiner's Amendment, is attached, as the second 3 page part of Exhibit 1.)



Appn 09/2524866 Petition To Withdraw An Application From Issue 2

The amendment limits the claim to a license plate. This limitation takes away the other embodiments that are clearly stated in the specification. The appellant will point these out in the Argument section of this Petition. When the appellant loses the other embodiments, someone else can easily employ one or more of them to evade the claim.

The appellant does not accept the Examiner's Amendment of claim 4. He, therefore, submits this Petition To Withdraw An Application From Issue. Because he seeks one patent containing claims 3 and 4, appellant's Petition herewith pertains to both claims.

The Examiner's Amendment of claim 4, mailed 09/15/06, continues his rejection of the wording of claim 4, first begun in the Office Action, of 06/22/05, to which the appellant responded by requesting reinstatement of the appeal and submitting his brief.

The proper procedure now is for the appellant to submit a reply brief to continue the appeal to the Board of Patent Appeals and Interferences. The appellant plans to file a reply brief within the allowed two months time (from 09/15/06).

Here is what the examiner said in the Office Action, of 06/22/05, in rejecting claim 4. (Copy of the Office Action is attached as Exhibit 2.)

"2. The following is a quotation of the second paragraph of U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

"3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"4. Regarding claim 4, line 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP Section 2173.05(d).

"Claim 4, Line 8, "the ideal position" is indefinite. It is not clear that which position of the camera is mounted. Appropriation correction is required.

"7. Claim 4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in the Office Action."

#### ARGUMENT

The appellant quotes from Manual of Patent Examining Procedure, Section 2173.02, on page 2100-199. Copy is attached as Exhibit 3. This is not a new reference. It was used as Exhibit 10 in the Amended 2nd Supplemental Appeal Brief. The quotation begins at line 12, 2nd column:

"The mere use of the phrase "such as" in the claim does not by itself render the claim indefinite. Office policy is not to employ per se rules to make technical rejections. Examples of claim language which have been held to be indefinite set forth in MPEP Section 2173.05(d) are fact specific and should not be applied as per se rules. The test for definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification."

What the appellant is going to do is give some quotes from the specification, then state the appellant's version of claim 4. The question will then be: Would those skilled in the art understand what is claimed when the claim is read in the light of the specification?

Copies of pages from the specification, including pages 35, 36, 14, and 31, are attached as Exhibit 4.

1. Quoting from page 35, the last paragraph, and continuing at the top of page 36:

"While my above description contains many specificities, these should not be construed as limitations on the scope of the invention, but rather as an exemplification of one preferred embodiment thereof. Many other variations are possible. For example:"

2. Continuing to quote from page 36, beginning at line 10:

"The rear plate, to which the enclosure for the micro-video, pin-holed lens camera is mounted, need not be a license plate but could be a plate with a company logo on it, or with a phrase on it, such as Drive Safely."

3. Continuing to quote from page 36, beginning at the last paragraph, at line 25:

"Accordingly, the scope of the invention should be determined not by the embodiment(s) illustrated, but by the appended claims and their legal equivalents."

4. Appellant now turns to page 14 of the specification and quotes, beginning at line 17:

"My idea is to mount this enclosure, with the micro-video, pin-holed lens camera inside, to the reverse side of a plate, such as a license plate, located at the back of a box trailer, just beneath the bed of the trailer, in perfect position for the micro-video, pin-holed lens camera to view a backing to a loading dock. A predetermined-sized hole would be put in the plate, so the pin-holed lens could see through.

"The result is concealment of the video camera at the most advantageous height off the ground."

5. The last quote will come from page 31, beginning at line 11:

"Ideally, the plate should be mounted in the middle at the rear of the motor vehicle, or trailer, which is the place where the plate, such as a license plate, is most commonly mounted just under the bed of the trailer, at the rear. Here it is protected from rain and direct sunlight. Also, its ordinary placement will not alert potential vandals that there is anything unusual, or special, about the plate."

Here is the appellant's version of claim 4:

"4. An assembly of a micro-video, pin-holed lens camera, comprising means for mounting said assembly on the reverse side of a plate, such as a license plate, at the rear of a trailer or motor vehicle, so that said camera can see through a predetermined-sized hole put in said plate,

whereby said plate-mounted assembly conceals said pin-holed lens camera to lessen the risks of vandalism,

whereby said camera is located in the ideal position at the rear of a trailer or motor vehicle for viewing a backing, when used in conjunction with a monitor.

Here is the last sentence from the quote given from the Manual of Patent Examining Procedure, Section 2173.02, on page 2100-199 (copy attached as Exhibit 3):

"The test for definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification."

The appellant asserts that those skilled in the art would understand claim 4 when the claim is read in light of the specification.

#### Additional Argument

The phrase "such as a license plate" is meant to point out that "license plate" is one particular embodiment, and that the major word is "plate", that can enable other embodiments described on page 36, lines 10-13, of the specification.

The phrase, "whereby said camera is located at the ideal position at the rear of a trailer or motor vehicle for viewing a backing," refers to a position that is best, based on objective, logical criteria, which are described in the specification, page 14, beginning at line 17, and page 31, beginning at line 11.

The described criteria of the ideal position are:

- (1) "just beneath the bed of the trailer,"
- (2) "at the most advantageous heighth off the ground"
- (3) "Ideally, the plate should be mounted in the middle at the rear of the motor vehicle, or trailer,"
- (4) "mounted just under the bed of the trailer, at the rear. Here it is protected from rain and direct sunlight."

Further, if one were to ask those skilled in the art where the ideal position is located, the appellant asserts that they would say in the middle at the rear of a trailer, and just under the bed of the trailer.

#### Summary Argument

In the Amended 2nd Supplemental Appeal Brief, mailed 07/12/06, the appellant declined to accept the examiner's offer to allow claim 4 if the applicant/appellant made changes required by the examiner. These would limit the claim to a license plate.

The Examiner's Amendment, of 09/15/06, made the changes that the appellant refused to make. The changes take away the other embodiments clearly stated in the specification, page 36, lines 10-13. When the appellant loses the other embodiments, someone else can easily employ one or more of them to evade the claim.

The examiner issued three previous Office Actions, dating back to the year 2000, and never objected to the words to



which he now objects. An inference can be drawn that the words are not objectionable; otherwise, the examiner would have objected to them before 06/22/05.

WHEREFORE, the appellant very respectfully requests that the Director grant the Petition To Withdraw An Application From Issue, in accordance with 37 CFR Section 1.313(a).

Very respectfully,

*Rolf Jansen*

Rolf Jansen

Appellant, pro se

P.O. Box 73161

Houston, TX 77273-3161

Verification

Appellant, Rolf Jansen, pro se, hereby declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonments or both. under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

*Rolf Jansen*

Rolf Jansen

Appellant, pro se

Date of signature: 10/26/06

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